**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.11913 of 2006

**ORAL ORDER:**

This writ petition is filed seeking a Mandamus declaring the action of the respondents in recovering seigniorage charges at the enhanced rates, is arbitrary, illegal, discriminatory and contrary to the Agreement entered into between the parties and consequently direct the respondents to consider and take decision in pursuance of the decision taken by the Board of Chief Engineers on 21.1.2004 in Agenda Item No.8(vi) in respect of reimbursement of enhanced seigniorage charges by the Department.

It appears, the petitioner has entered into an Agreement with the respondents on 17.9.2004 for execution of certain works. Immediately thereafter G.O.Ms.No.217 dated 29.9.2004 was issued enhancing the seigniorage fee. There is no dispute that as and when there is enhancement in the seigniorage fee, the same shall be deducted from the bills of the petitioner, but it seems the Board of Chief Engineers in its meeting held on 21.1.2004 in Agenda Item No.8(vi) have discussed the subject of modification on work agreement related to reduction and remittances of seigniorage fee, the same reads as under:

**Agenda Item No.8(vi)**

Sub: Vigilance and Enforcement Department – Modification on work agreement related to reduction and remittances of Seigniorage fee.

Ref: Govt. Memo No.13867/G/COD/2003 dated 2.8.2003 (proposed by Engineer-in-Chief (AW).

While enclosing the Vigilance and Enforcement, GAD, appraisal note No.84 dated 4.7.2003, the Government have requested to furnish the copies of Engineer-in-Chief (AW) on the above matter.

As per the appraisal Note No.84 dated 4.7.2003 under para 2, the Government of Andhra Pradesh under Section 15 of M & M (D&R) Act,

1957, revises the seigionorage fee on the minor minerals once in every four years. Whenever the Government revises the rates of seigniorage fee, the Mines and Geology Department insists recovery as per revised rates of seigniorage fee whereas contractors insists for recovery at old rates prevailing as on date of agreements.

Under para (3) the Seigniorage fee prevailing as on date of dispatch of mineral from quarry is liable as per A.P.M.M.C. Rules, 166. Vigilance and Enforcement Department has suggested to modify the agreement conditions to the effect that "the seigniorage fee shall be recovered at the rates prevailing as on the date of recordings of the measurements in M-Books.

Presently, the seigniorage charges for minor minerals are loaded in the data of estimates and the recovery from the contractors work bill is made as per the rates prescribed in the contract document in terms of G.O.Ms.No.94 dated 1.7.2003 and G.O.Ms.No.23 dated 5.3.1999. In case of public works, the user agency is the Government and in turn the seigniorage charges are to be born by the concerned department only. Put up for discussion in the Board of Chief Engineers for taking suitable decision as desired by E-in-C (AW) vide their U.O.Note No.Rc/ENC(AW)/ADA/AE.1/23256/2003 dated 9.10.2003.

The Board has discussed the issue and decided that the seigniorage charges are to be recovered as provided in the estimate/agreement and any escalation beyond agreement rates are to be borne by the Department charging the amount to the estimate.

(Action: Engineer-in-Chief (IW))

From the above, it is seen that in case of public works, the user agency is the Government and in turn the seigniorage charges are to be borne by the concerned department only. The Board has discussed the issue and decided that the seigniorage charges are to be recovered as provided in the estimate/agreement and any escalation beyond agreement rates are to be borne by the Department charging the amount to the estimate.

In view of the above, the writ petition is disposed of directing the respondents to consider the case of the petitioner as per the Agenda Item No.8(vi) referred above and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

C.V.RAMULU,

J

Date: 23.10.2006

DA

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

23.10.2006

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11913 of 2006

Date: 23rd October, 2006

Between:

M/s Harvins Constructions (P) Ltd.,
Banjara Hills, Hyderabad,
rep. by its Power of Attorney V.Rajagopala Reddy.

.. Petitioner

And

The Government of Andhra Pradesh,
rep. by its Principal Secretary to Government,
Irrigation & Command Area Development Department,
Secretariat, Hyderabad & others.

.. Respondents